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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,260

03/15/2004

Ichiro Fujimori

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23446 7590 06/08/2009  
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EXAMINER

CAO, PHAT X

ART UNIT

PAPER NUMBER

2814

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* ICHIRO FUJIMORI

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Appeal No. 2009-000078  
Application 10/801,260  
Technology Center 2800

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Mailed: June 5, 2009

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Before DALE M. SHAW *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

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This application was electronically received by the Board of Patent Appeals and Interferences on August 5, 2008. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A Reply Brief was filed on January 14, 2008, in response to the Examiner's Answer mailed November 15, 2007.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed March 28, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

**CONCLUSION**

Accordingly, it is

ORDERED that this application be returned to the Examiner:

- 1) to vacate the Communication mailed March 28, 2008;
- 2) to generate and mail either:
  - a) a revised Communication properly acknowledging to the Reply Brief dated January 14, 2008 in accordance with MPEP§ 1208, part II;
- OR
- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate, and;
- 3) for such further action as may be appropriate.

Appeal No. 2009-000078  
Application No. 10/801,260

If there are any questions pertaining to this Order, please contact the  
Board of Patent Appeals and Interferences at 571-272-9797.

DMS/nhl

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